

REMARKS

Claims 1, 2, and 4 to 17 are pending in this application and stand rejected. Applicant is herein amending the specification. Applicant requests reconsideration and withdrawal of the rejections as discussed more fully below.

Preliminary Matter regarding Information Disclosure Statement

Applicant requests the Office to acknowledge review of EP-A2-0,820,183 submitted on the Form PTO-1449 mailed August 26, 2004 by initialing the entry. Applicant submits a duplicate copy of the previously initialed sheet (where the Examiner has initialed the U.S. references but not the foreign references).

Amendment to the Specification

Applicant is herein amending the specification to provide the application number of the related application filed concurrently with the instant application. Applicant submits that the amendment to the specification does not introduce new matter.

Rejection under 35 U.S.C. § 102(e)

Claims 1, 2, and 5 to 17 are rejected under 35 U.S.C. § 102(e) as anticipated by US 2002/0091762 (hereinafter referred to as the "Sohn Application"). Applicant traverses the rejection because the Sohn Application does not have a 102(e) date that pre-dates the earliest effective filing date of the instant application.

The instant application was filed on May 14, 2001 and claims the benefit of earlier filed U.S. Application No. 60/204,606, filed *May 16, 2000*.

The Sohn Application has a filing date of *March 7, 2001* and claims the benefit of two earlier provisional applications (U.S. Application Nos. 60/187,683 filed March 8, 2000

and 60/198,713 filed April 20, 2000, copies of each downloaded from PAIR enclosed). The Sohn Application is only entitled to the benefit of the filing date of these provisional applications 35 U.S.C. § 119(e), *if the provisional applications properly support the subject matter relied upon to make the rejection* in compliance with 35 U.S.C. 112, first paragraph (MPEP § 2136.03). Applicant respectfully submits that the subject matter relied on by the Office, including *inter alia*, paragraphs [0009], [0011], [0023], [0038], [0043], and [0044], is not supported by either of the two provisional applications. Accordingly, the 102(e) date of the Sohn Application is **March 7, 2001** and therefore does not pre-date the effective filing date of the instant application (**May 16, 2000**).

Because the Sohn Application is not a proper 102(e) reference and without conceding the merits otherwise of the rejection, applicant respectfully requests that the rejection of claims 1, 2, and 5 to 17 under 35 U.S.C. § 102(e) as anticipated by the Sohn Application be withdrawn.

Rejection under 35 U.S.C. § 103(a)

Claim 4 is rejected under 35 U.S.C. § 103(a) as obvious over the Sohn Application in view of US-B-6,185,198 (hereinafter "the LaDue Patent"). Applicant traverses the rejection because the Sohn Application is not a proper 102(e) reference and as such cannot support an obviousness rejection in combination with any secondary reference.

Because the Sohn Application is not a proper 102(e) reference and without conceding the merits otherwise of the rejection, applicant respectfully requests that the rejection of claim 4 under 35 U.S.C. § 102(e) as obvious over the Sohn Application in view of the LaDue Patent be withdrawn.

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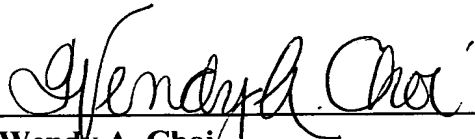
Conclusions

Applicant respectfully requests:

- (1) acknowledgment that EP-A2-0,820,183 was considered by initialing copy of Form PTO-1449;
- (2) entry of the amendment to the specification; and
- (3) reconsideration and withdrawal of the rejections of the claims.

If the Examiner believes a telephone conference would expedite prosecution of this application, the Examiner is invited to contact the undersigned attorney at 404-459-5642.

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Wendy A. Choi
Registration No. 36,697

WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439